

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

April 16, 1999

**IN RE:**

**SHOW CAUSE PROCEEDING  
AGAINST MINIMUM RATE PRICING,  
INC.**

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**DOCKET NO.: 98-00018**

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**ORDER OF HEARING OFFICER REGARDING JURISDICTION**

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This matter comes before the Hearing Officer Melvin J. Malone, pursuant to the April 7, 1999, Order of the Tennessee Regulatory Authority, for a decision on the issue of jurisdiction. The Hearing Officer having reviewed the Briefs of the Authority Staff and of the Consumer Advocate Division and Minimum Rate Pricing, Inc. having decided not to submit a Brief, rules that the Tennessee Regulatory Authority may properly decide the issue of who has jurisdiction to determine jurisdiction. Further, the Hearing Officer determines that the Authority does have jurisdiction to determine whether the exception to the bankruptcy stay should be applied to this proceeding and rules.

**I. Travel of the Case**

On January 6, 1998, at a regularly scheduled Authority Conference, the Tennessee Regulatory Authority ("the Authority" or "the TRA"), considered the preliminary investigation findings of the Authority's Consumer Services Division against Minimum Rate Pricing, Inc. ("MRP") and ordered that a docket be opened for the purpose of issuing a show cause action against MRP pursuant to Tenn. Code Ann. § 65-2-106 and Authority Rule 1220-

4-2-.57(16)(c). On July 27, 1998, the Authority issued its *Order Requiring Minimum Rate Pricing, Inc. to Appear and Show Cause Why A Cease and Desist Order, Fine and/or Order Revoking Authority Should Not Be Issued and Appointing Hearing Officer*.

Based upon Staff's preliminary investigation, the Authority issued the Show Cause Order and specifically stated that (1) MRP either has or is violating Authority Rule 1220-4-2-.13(3) by failing to timely conduct a full and prompt investigation of complaints made by its customers and for failing to timely reply to the Authority's Staff with sufficient evidence to demonstrate MRP's compliance with Authority Rule 1220-4-2-.56; (2) MRP either has or is violating Authority Rule 1220-4-2-.56(1)(c) by failing to properly verify its orders for changes in long distance carriers, by failing to utilize an "appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative . . . [to] obtain the customer's oral authorization to submit the PIC change order that includes appropriate verification data (including the customer's date of birth or social security number)"; (3) MRP either has or is violating Authority Rule 1220-4-2-.56(1)(d) by failing to provide each customer with a timely information package that contains a statement that the information is being sent to confirm a telemarketing order placed by the customer within the previous week, along with the name of the person ordering the change, and clear information pertaining to MRP's practice of automatically switching a customer's long distance service until the customer directly notifies MRP of its desire to change long distance service providers; (4) MRP either has or is violating Authority Rule 1220-4-2-.56(1)(e) by apparently failing to maintain all "evidence of change orders for one year for dispute resolution"; (5) MRP either has or is violating Authority Rule 1220-4-2-.56(2) by

either failing to or by making misleading and deceptive mandatory disclosures to consumers when seeking to change a customer's PIC; and (6) MRP either has or is violating Authority Rule 1220-4-2-.57(7)(a) and/or Authority Rule 1220-4-2-.57(11) by billing consumers for intrastate directory assistance and telephone calls made between two (2) points in the same county in Tennessee because such charges exceed the maximum rates of the predominant LEC or IXC for an equivalent call.

The Show Cause Order indicated that in 1997, approximately forty-seven (47) Tennessee telephone service consumers filed complaints with the Authority Staff against MRP alleging that MRP either changed their chosen long distance service provider without their knowledge or consent or otherwise acted in violation of either Tennessee law or the rules and regulations of the Authority. Additionally, the Show Cause Order provided that since January, 1998, approximately forty-five (45) consumers filed complaints against MRP, twenty-seven (27) of which involved allegations of slamming.

MRP filed a Response to the Show Cause Order on October 1, 1998. MRP maintained that it was generally in compliance with the Authority's rules and regulations and denied that it has ever engaged in a concerted policy of slamming. MRP stated that all but one complainant in the Show Cause Order were either reimbursed or declined reimbursement.

On October 23, 1998, the Consumer Advocate filed a Petition to Intervene in this proceeding, alleging, among other things, that MRP has repeatedly violated Tenn. Code Ann. §§ 65-4-125 and 65-4-122(b). This petition was granted without objection. On November 4, 1998, the Consumer Advocate filed a Motion to Amend and Substitute Petition to Intervene,

along with an Amended Petition to Intervene. The Amended Petition to Intervene again alleged violations of § 65-4-125. After being provided an opportunity to review and comment upon the motion and the amended petition, MRP filed no comments or objections, and the motion was granted and the amendment was permitted.

This matter went to hearing before the Authority on November 24 and 25, 1998 and December 10 and 11, 1998. At the conclusion of the hearing, counsel for MRP, Walter Diercks, agreed that MRP would not solicit any business in the state of Tennessee from that point in time until a decision on the merits by the Authority. The parties agreed to reduce that agreement to writing and submit it to the Authority. The parties were provided the opportunity to file post-hearing briefs and proposed findings of fact and conclusions of law. The Authority Staff and the Consumer Advocate filed post-hearing briefs on February 2, 1999. MRP did not file a post-hearing brief. On February 19, 1999, the Authority Staff and the Consumer Advocate filed a joint proposed findings of fact and conclusions of law. On February 19, 1999, MRP also filed proposed findings of fact and conclusions of law.

On March 25, 1999, the Authority entered an Order to Cease and Desist based on the agreement entered into by the parties prior to the conclusion of the Hearing on December 11, 1998. That Order became a final order without objection on April 5, 1999. On March 24, 1999, the Consumer Advocate filed a Motion for Exercise of Police Power and Regulatory to Protect the Public Interest. The Consumer Advocate's Motion contained the first suggestion to the Authority that MRP had filed a petition in bankruptcy. On March 31, 1999, oral notice was given to counsel for all parties that this matter would be deliberated by the Directors at the April 6, 1999, Authority Conference. The Final Agenda showing this matter, along with

numerous other matters for consideration by the Directors, on the Conference schedule was sent via facsimile to counsel for all parties on April 1, 1999.

On April 5, 1999, the Authority received a letter filing from Walter Diercks, Esq., counsel for MRP, in which Mr. Diercks advised the Authority for the first time that MRP. had filed a petition in bankruptcy on February 26, 1999. Mr. Diercks stated that in his opinion that this matter “has been automatically stayed by Section 362 of the Bankruptcy Code, 11 U.S.C. Section 362.” In his letter, Mr. Diercks advised the Authority to direct all inquiries regarding the bankruptcy to MRP’s bankruptcy counsel: Bruce Frankel, Esq. of Angel and Frankel, P.C. in New York, New York.

This matter came before the Tennessee Regulatory Authority (“the Authority”) for deliberation and a decision on the merits by the Directors at a regularly scheduled Authority Conference held on April 6, 1999. Upon learning that Minimum Rate Pricing, Inc.’s bankruptcy counsel would be contesting the jurisdiction of the Authority to proceed in this matter, the Authority determined not to deliberate on the merits of this matter at this Conference. Instead, the Directors voted to appoint Chairman Melvin Malone to serve as Hearing Officer for the purpose of rendering a decision and entering an Initial Order on the issue of jurisdiction. The Directors directed the parties in this matter to file briefs on the issue of jurisdiction not later than 12:00 Noon, Wednesday, April 14, 1999. An Order reflecting the action of the Directors was entered on April 7, 1999. A Notice setting forth the briefing schedule and requirements for the filing of briefs was sent to all parties on April 7, 1999. The Order and Notice are attached hereto as Exhibit A and Exhibit B, respectively.

On April 14, 1999, the Authority Staff and the Consumer Advocate filed briefs on the issue of jurisdiction. At approximately 9:30 a.m. on April 14, 1999, Mr. Dierks filed a letter with the Authority advising the Authority that he would not be filing any brief on the issue of jurisdiction. The main thrust of Mr. Diercks' letter consisted of a re-hash of his letter filed with the Authority on April 5, 1999, in which he stated "that the automatic stay applies to the instant Show Cause proceeding and that no exception to the automatic stay is applicable in the instant case. (Citing *Fugazy Express, Inc. v. Shimer*, 124 B.R. 426 (S.D.N.Y. 1991)).

## **II. Decision on Jurisdiction Issue**

The Tennessee Regulatory Authority is a governmental unit endowed by the Tennessee General Assembly with police and regulatory powers. This action is an administrative, regulatory proceeding, the purpose of which is to enforce both state law and the TRA's own rules and regulations. It is clear that the Authority commenced this show cause proceeding long before MRP filed its bankruptcy petition.

MRP has argued that because it has filed bankruptcy in the United States Bankruptcy Court for the District of New Jersey, 11 U.S.C. § 362<sup>1</sup> of the Bankruptcy Code bars the TRA

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<sup>1</sup> The applicable stay provisions of § 362 provide:

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of--

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

from going forward with its ruling on the Order to Show Cause. MRP does not agree that the exception to the automatic stay for the exercise of police and regulatory power by a governmental unit<sup>2</sup> applies to the TRA's ruling.

A. JURISDICTION TO DETERMINE APPLICABILITY OF THE AUTOMATIC STAY

MRP first raises the issue of the TRA's authority to determine the scope of the automatic stay. The law in this regard is clear.<sup>3</sup> The United States Court of Appeals for the Third Circuit has determined that "[t]he court in which the litigation claimed to be stayed is pending thus 'has jurisdiction to determine not only its own jurisdiction but also the more

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(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

\* \* \* \* \*

<sup>2</sup> That portion of section 362 provides in pertinent part:

(b) The filing of a petition under section 301, 302, or 303 of this title, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970, does not operate as a stay--

\* \* \* \* \*

(4) under paragraph (1), (2), (3), or (6) of subsection (a) of this section, of the commencement or continuation of an action or proceeding by a governmental unit or any organization exercising authority under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993, to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power;

<sup>3</sup> The Sixth Circuit Court of Appeals, the federal circuit which includes the State of Tennessee, and the Third Circuit, the Circuit which binds the Court in which the Debtor has filed its bankruptcy petition, have reached the same conclusion as to this issue. Accordingly, we do not need to reach the question of which circuit's law applies.

precise question whether the proceeding pending before it is subject to the automatic stay.”<sup>4</sup>

The United States Court of Appeals for the Sixth Circuit has reached the same conclusion.<sup>5</sup>

In Mr. Diercks’ letter (filed April 14, 1999), MRP has suggested that these cases do not apply to state forums but only to federal courts. However, the Sixth Circuit Bankruptcy Appellate Panel has specifically looked at the issue and decided otherwise.<sup>6</sup> Additionally, in the Third Circuit’s discussion of cases in which it held that the state agencies involved were not stayed by Section 362,<sup>7</sup> it has not suggested that those agencies should have ceased their activities nonetheless so that the bankruptcy court could issue a declaratory judgment (more time consuming and costlier than a motion for relief from the stay) that a motion for relief from the stay is not necessary. MRP offers no authority for its position that only federal non-bankruptcy courts may determine the scope of the stay, and in the face of the authority listed here, MRP’s contention is rejected. The TRA has the authority to determine whether the automatic stay bars it from issuing its decision and order on the Order to Show Cause.

B. APPLICATION OF THE AUTOMATIC STAY

The decisions of the United States Court of Appeals for the Third Circuit are conclusive that the TRA is not barred by §362 from issuing a decision on the merits of the

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<sup>4</sup> Brock v. Morysville Body Works, Inc., 829 F.2d 383, 387 (3rd Cir. 1987)(Citing In re Baldwin-United Corporation Litigation, 765 F.2d 343, 347 (2d Cir.1985). NLRB v. Edward Cooper Painting, Inc., 804 F.2d 934, 936, 938-39 (6th Cir.1986))

<sup>5</sup> NLRB v. Edward Cooper Painting, Inc., 804 F.2d 934, 936, 938-39 (6th Cir.1986))

<sup>6</sup> Singleton v. Fifth Third Bank, et al., 230 B.R. 533, 538, (Bankr. 6th Cir. 1999).

<sup>7</sup> See Penn Terra Limited v. Department of Environmental Resources, Commonwealth of Pennsylvania, 733 F.2d 267 (3rd Cir. 1983);



Order to Show Cause. In addition to Brock v. Morysville Body Works,<sup>8</sup> the Third Circuit has on many occasions held that §362 exempts actions “brought by state and federal agencies to correct violations of regulatory statutes enacted to promote health and safety.”<sup>9</sup> Virtually each decision repeats the legislative history which states that “paragraph (4) provides an exception to the automatic stay ‘where a governmental unit is suing a debtor to stop violation of fraud, environmental protection, **consumer protection**, safety, or similar police or regulatory laws, or attempting to fix damages for violation of such a law.’”<sup>10</sup> (Emphasis added).

In addition, the Third Circuit has held that “considerations favoring liberal construction of the exception to the automatic stay provisions found in subsections 365(b)(4)-(5) outweigh the contrary considerations . . . favoring a more restrictive construction.”<sup>11</sup> The Circuit has further stated:

The police power of the several States embodies the main bulwark of protection by which they carry out their responsibilities to the People; its abrogation is therefore a serious matter. Congress should not be assumed, therefore, to have been miserly in its refund of that power to the States. Where important state law or general equitable principles protect some public

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<sup>8</sup> 829 F.2d 383, supra.

<sup>9</sup> James v. Draper (In re James), 940 F.2d 46 (3rd Cir. 1991); United States v. Nicolet, Inc., 857 F.2d 202 (3rd Cir. 1988); Brock v. Morysville Body Works, Inc., 829 F.2d 383 (3rd Cir. 1987) (citing United States v. Wheeling-Pittsburgh Steel, 818 F.2d 1077 (3rd Cir. 1987); Penn Terra, Ltd. v. Department of Environmental Resources, 733 F.2d 267 (3rd Cir. 1984); see also Midlantic National Bank v. New Jersey Department of Environmental Protection, 474 U.S. 494, 106 S.Ct. 755, 761, 88 L.Ed.2d 859 (1986))

<sup>10</sup> See, for example, Brock v. Morysville Body Works, Inc., 829 F.2d at 387, citing H.R.Rep. No. 595, 95th Cong., 2nd Sess. 343, reprinted in 1978 U.S.Code Cong. & Ad.News 5963, 6299

<sup>11</sup> Penn Terra Limited v. Department of Environmental Resources, Commonwealth of Pennsylvania, 733 F.2d at 273.

interest, they should not be overridden by federal legislation unless they are inconsistent with explicit congressional intent such that the supremacy clause mandates their supersession.<sup>12</sup>

C. CONCLUSION

Based upon the legal authority cited above, which would bind the bankruptcy court in New Jersey were the issue to come before it, the TRA is excepted from the provisions of the automatic stay in determining whether MRP has operated in violation of the laws of the State of Tennessee. It should be noted that these cases, which hold that the TRA may issue injunctions and determine whether the debtor may operate under state law, were all decided under a more restrictive version of §362(b)(2) than is presently in effect.<sup>13</sup> These cases limit only the TRA's ability to collect a money judgment.<sup>14</sup> They clearly support the ability of the TRA to move forward with a decision on the merits of this action and fix penalties, including fines and revocation, against MRP should the findings of the Directors warrant such.

While Mr. Diercks asserts in his letter that he is not waiving his client's "rights to raise any objection or issue...", MRP has foregone its opportunity to appear before this tribunal through a brief and argue its position on the matters being decided in this Order. In James v. Draper (In re James), 940 F.2d 46, 53-54 (3rd Cir. 1991), the Third Circuit Court stated:

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<sup>12</sup> James v. Draper, 940 F.2d at 52, citing Penn Terra, supra.

<sup>13</sup> Section 362(b)(4) and (b)(5) were combined in October of 1998, and expanded in scope to allow actions by governmental units to obtain possession of or exercise control over property of the estate.

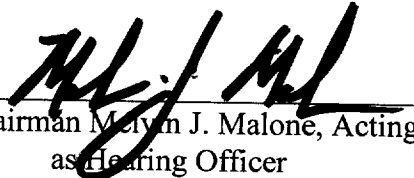
<sup>14</sup> United States v. Nicolet, Inc., supra, 857 F.2d 202.

The Debtor should not be rewarded for sitting on [its] rights and expecting the filing of a ...petition to shield [it.] In carving out the section 362(b)(4) exception, Congress intended to combat the risk that defendants could “frustrate necessary governmental functions” by seeking refuge in bankruptcy court. (Citations omitted.)


The Hearing Officer is of the opinion that MRP’s contentions about the stay and its refusal to participate in the briefing of the jurisdictional issue are indeed efforts on its part to “frustrate necessary governmental functions” of the state of Tennessee in enforcing its statutes and rules and regulations in an effort to protect Tennessee consumers.

**IT IS THEREFORE ORDERED THAT:**

1. The Tennessee Regulatory Authority has jurisdiction to determine the issue of jurisdiction with regard to the scope of the automatic stay.
2. The Tennessee Regulatory Authority has jurisdiction to proceed to deliberate this matter on the merits because this action is excepted from the automatic stay by 11 U.S.C. Section 362(b)(4).
3. Any party aggrieved by this Order may file a Petition for Reconsideration with the Authority within ten (10) days from the date of this Order.

  
Chairman Melvin J. Malone, Acting  
as Hearing Officer

ATTEST:

  
Executive Secretary

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**April 7, 1999**

**IN RE:** )  
 )  
**SHOW CAUSE PROCEEDING** ) **DOCKET NO.: 98-00018**  
**AGAINST MINIMUM RATE PRICING,** )  
**INC.** )

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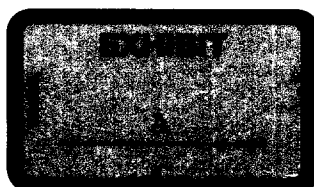
**ORDER REFLECTING ACTION TAKEN AT  
APRIL 6, 1999, AUTHORITY CONFERENCE**

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This matter came before the Tennessee Regulatory Authority ("the Authority") for deliberation and a decision on the merits by the Directors at a regularly scheduled Authority Conference held on April 6, 1999. On April 5, 1999, the Authority received a letter filing from Walter Diercks, Esq., counsel for Minimum Rate Pricing, Inc., in which Mr. Diercks advised the Authority for the first time that Minimum Rate Pricing, Inc. had filed a petition in bankruptcy on February 26, 1999, and that he was of the opinion that this matter "has been automatically stayed by Section 362 of the Bankruptcy Code, 11 U.S.C. Section 362."<sup>1</sup> In his letter, Mr. Diercks advised the Authority to direct all inquiries regarding the bankruptcy to Minimum Rate Pricing, Inc.'s bankruptcy counsel: Bruce Frankel, Esq. of Angel and Frankel, P.C. in New York, New York. Upon learning that Minimum Rate Pricing, Inc.'s bankruptcy counsel would be contesting the jurisdiction of the Authority to proceed in this matter, the Authority determined not to deliberate on the merits of this matter at this

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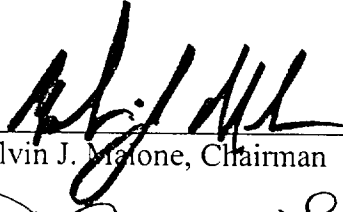
<sup>1</sup> Letter of Walter E. Diercks to K. David Waddell, April 2, 1999, p. 1. A copy of Mr. Diercks' letter is attached to this Order as **Exhibit A**.

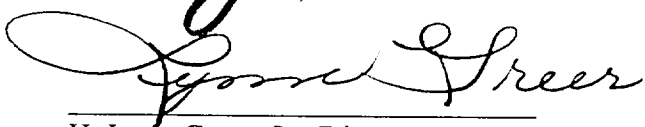



Conference. Instead, the Directors voted to appoint Chairman Melvin Malone to serve as Hearing Officer for the purpose of rendering a decision and entering an Initial Order on the issue of jurisdiction. The Directors directed the parties in this matter to file briefs on the issue of jurisdiction not later than 12:00 Noon, Wednesday, April 14, 1999. A Notice setting forth the schedule and requirements for the filing of briefs will be sent to the parties by the Authority's Executive Secretary.

**IT IS THEREFORE ORDERED THAT:**

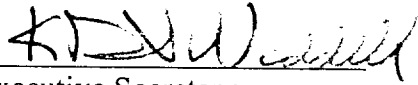
1. Chairman Melvin Malone is hereby appointed to serve as Hearing Officer in this matter and to render an Initial Order on the issue of whether the Authority has jurisdiction to proceed to deliberate this matter on the merits in light of the automatic stay under the Bankruptcy Code, 11 U.S.C. Section 362.
2. The parties shall file briefs with the Authority on the issue of the jurisdiction not later than 12:00 Noon, Wednesday, April 14, 1999.

  
Melvin J. Malone, Chairman

  
H. Lynn Greer, Jr., Director

  
Sara Kyle, Director

ATTEST:

  
Executive Secretary

RUBIN, WINSTON, DIERCKS, HARRIS & COOKE, L.L.P.  
ATTORNEYS AT LAW  
TENTH FLOOR  
1333 NEW HAMPSHIRE AVENUE, N.W.  
WASHINGTON, D.C. 20036

TELEPHONE (202) 861-0870 FAX (202) 429-0657

FAX TRANSMISSION COVER SHEET

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TO: K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority

FAX #: 615-741-5015

CONF. #: 615-741-3191

This telecopy transmission consists of 5 pages, including this page.

FROM: Walter E. Diercks

DATE: April 5, 1999

COMMENTS: **Please deliver immediately upon receipt**

If a problem of clarity of transmission arises, please call Sonia at (202) 861-0870.

EXHIBIT

A

**RUBIN, WINSTON, DIERCKS, HARRIS & COOKE, L.L.P.**

A REGISTERED LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

TENTH FLOOR

1833 NEW HAMPSHIRE AVENUE, N.W.

WASHINGTON, D.C. 20036

(202) 861-0870

FAX: (202) 429-0657

April 2, 1999

**BY FACSIMILE, FEDERAL EXPRESS,  
AND U.S. EXPRESS MAIL**

Mr. K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Re: Docket No. 98-00018  
Show Cause Proceeding Against Minimum Rate Pricing, Inc.

Dear Mr. Waddell:

This is to inform the Tennessee Regulatory Authority that Minimum Rate Pricing, Inc., the subject of the above-captioned Show Cause Proceeding, filed a petition under Chapter 11 of the Bankruptcy Code, 11 U.S.C. Section 1101, *et seq.*, on February 26, 1999. A copy of the first page of the MRP petition is enclosed for your information.

Please be advised that the instant Show Cause proceeding has been automatically stayed by Section 362 of the Bankruptcy Code, 11 U.S.C. Section 362. I call to the Authority's attention *Fugazy Express, Inc. v. Shimer*, 124 B.R. 426 (S.D.N.Y. 1991), *appeal dismissed*, 982 F.2d 769 (2d Cir. 1992). Any issue regarding the scope and effect of the automatic stay and any request for relief from the automatic stay must be presented to and resolved by the United States Bankruptcy Court for the District of New Jersey, Newark Division.

Because this proceeding has been stayed, MRP is not filing a response to the Motion for Exercise of Police and Regulatory Authority to Protect the Public Interest, which was filed in violation of the automatic stay on March 24, 1999 by the Consumer Advocate Division of the Office of the Attorney General and Reporter. We believe that the substance of the CAD's Motion is subject to the stay.

**RUBIN, WINSTON, DIERCKS, HARRIS & COOKE, L.L.P.**


Mr. K. David Waddell  
April 2, 1999  
Page 2

Please direct all correspondence regarding the MRP bankruptcy or the automatic stay to MRP's bankruptcy counsel:

Bruce Frankel, Esq.  
Angel & Frankel, P.C.  
460 Park Avenue  
New York, N.Y. 10022-1906  
Telephone: (212) 752-8000

I further request that a copy of this letter be placed in the docket for the above-captioned proceeding.

Very truly yours,



Walter E. Diercks

cc: L. Vincent Williams, Esq. (with enclosures)  
Carla G. Fox, Esq. (with enclosures)  
Bruce Frankel, Esq. (without enclosures)



----- United States Bankruptcy Court ----- VOLUNTARY PETITION -----  
 DISTRICT OF NEW JERSEY  
 NEWARK DIVISION

IN RE -----	NAME OF JOINT DEBTOR -----
Minimum Rate Pricing, Inc.	N/A
ALL OTHER NAMES -----	ALL OTHER NAMES -----
	N/A
None	
SOC. SEC./TAX I.D. NO. -----	SOC. SEC./TAX I.D. NO. -----
22-3488800 3388629	N/A
STREET ADDRESS OF DEBTOR -----	STREET ADDRESS OF JOINT DEBTOR -----
150 Commerce Road	N/A
Cedar Grove, NJ 07009	
COUNTY ----- TEL-(973) 857-4200	COUNTY ----- TEL- N/A
Essex	N/A
MAILING ADDRESS OF DEBTOR -----	MAILING ADDRESS OF JOINT DEBTOR -----
150 Commerce Road	N/A
Cedar Grove, NJ 07009	
LOCATION OF PRINCIPAL ASSETS OF BUSINESS DEBTOR -----	
N/A	

VENUE -----  
 Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.

----- INFORMATION REGARDING DEBTOR -----	
TYPE: Corporation: NOT publicly held	CHAPTER OF BANKRUPTCY CODE
NATURE: Business	UNDER WHICH THE PETITION
A. TYPE OF BUSINESS	IS FILED: 11
Other Business	FILING FEE
	Attached

B. BRIEFLY DESCRIBE NATURE OF BUSINESS  
 Reseller of telecommunications services

STATISTICAL/ADMINISTRATIVE INFORMATION---	ATTORNEY NAME(S)/ADDRESS --
Debtor estimates that, after any exempt property excluded and administrative expenses paid, NO funds will be available for distribution to unsecured creditors.	Louis Pashman
	Bar #LP-1009
	PASHMAN STEIN
	45 Essex Street
	Hackensack, NJ 07601
----- range -- (sard code) -	
NO. OF CREDITORS 100-199 (4)	
ASSETS (thousands) 10,000-99,999 (6)	
LIABIL. (thousands) 100,000-over (7)	(201) 488-8200
NO. OF EMPLOYEES 0 (1)	
EQUITY SEC. HOLDERS 1-19 (2)	

----- THIS SPACE FOR COURT USE ONLY -----

BY DEPUTY CLERK  
 JOSEPH V. EGAN

99 FEB 26 AM 10:49

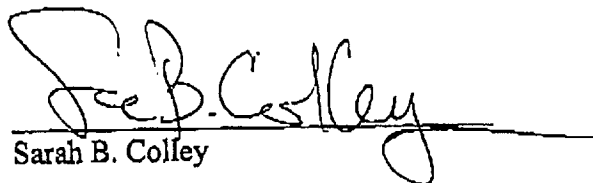
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing letter was served on the following parties of record on April 2, 1999 by facsimile, Federal Express and U.S. Express Mail by sending the facsimile copy to the facsimile machine of the recipient, placing the overnight courier copy in the possession of Federal Express and depositing the mail copy in the United States mail, postage prepaid:

Carla G. Fox, Esq.  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

L. Vincent Williams, Esq.  
Deputy Attorney General-Consumer Advocate  
Consumer Advocate Division  
Second Floor  
425 Fifth Avenue, North  
Nashville, TN 37243

  
Sarah B. Colley

# TENNESSEE REGULATORY AUTHORITY

Lynn Greer, Chairman  
Sara Kyle, Director  
Melvin Malone, Director



460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

## NOTICE OF FILING BRIEFS

DOCKET: 98-00018

RESPONDENT: MINIMUM RATE PRICING, INC.

IN RE: SHOW CAUSE PROCEEDING AGAINST MINIMUM  
RATE PRICING

DATE: APRIL 7, 1999

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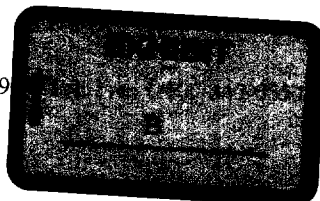
On April 6, 1999, at a regularly scheduled Authority Conference, Chairman Melvin Malone, Director Lynn Greer and Director Sara Kyle voted to appoint Chairman Malone to act as Hearing Officer in this matter for the purpose of rendering a decision and entering an Initial Order on the issue of jurisdiction. The Directors also directed the parties in this matter to file briefs on the issue of jurisdiction not later than **12:00 noon, Wednesday, April 14, 1999**. Briefs shall be delivered to K. David Waddell, Executive Secretary, Tennessee Regulatory Authority located at 460 James Robertson Parkway, Nashville, TN 37243

Any party filing a brief will serve a copy of that brief on the following persons via facsimile, at the time of filing, at the fax numbers listed below.

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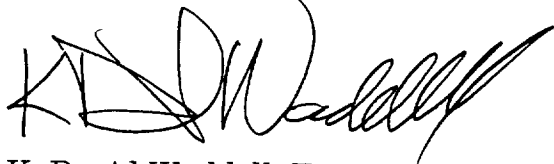
The Hearing Officer will issue an Initial Order on the jurisdictional question on or after April 16, 1999.

After the Initial Order is issued, the parties will have ten (10) days to ask for reconsideration or to appeal to the Directors, as provided by the Uniform Administrative ProcEdures Act (UAPA). (Tenn. Code Ann. §4-5-301, et seq.)

After reconsideration or appeal, the Directors will render a Final Order on the jurisdiction. That decision will become final as provided by the UAPA.

If the final decision holds that there is jurisdiction for the Authority to issue an order on the merits regarding MRP's operations and its ability to continue to do business in Tennessee, the Authority will issue that order as soon as the jurisdictional order is final.

FOR THE TENNESSEE REGULATORY AUTHORITY:

A handwritten signature in black ink, appearing to read 'K. David Waddell', is written over a horizontal line.

K. David Waddell, Executive Secretary

cc: Parties of Record